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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,785	01/26/2004	Frank V. Linker II	23104.PUS	9757

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EXAMINER

CHIN, PAUL T

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/764,785	LINKER ET AL.	
	Examiner PAUL T. CHIN	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 January 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 26 January 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. The disclosure is objected to because of the following informalities: the missing words "Technical Fi ld" (page 1) should be changed to -- Technical Field --. Applicant is encouraged to check all the spellings and grammatical usage. Appropriate correction is required.

Priority

4. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

Claim Objections

5. Claim 5 is objected to because of the following informalities: it appears that the depending claim "5" should be changed to -- 4 -- because claim 5 recites "the compartment" as claimed in claim 4. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The exact meanings of the claimed phrases "the air over the top surface thereby creating an additional second vacuum at the periphery of the paddle" (claim 1) and "producing a second lifting force" (claim 6) are not clearly understood as to how the air is directed over the paddle. Moreover, it is not clearly understood as to how the flowed air is blocked as shown in figures 6 and 6A. The blowing of air over the top surface would create the turbulence instead of a second vacuum. It is understood that a vacuum (a negative pressure) in a housing is created after the air is forced out of the housing. Further, there is no antecedent basis for "the pickup face" (claim 3, line 2), "the impeller" (claim 3, line 3), or "the top face of the paddle" (claim 4, line 3).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-4 and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Baan et al. (5,971,454),

Baan et al. (5,971,454) discloses a vacuum pickup device and method comprising a generally flat paddle member (Fig. 1) having a pickup surface and a planar top surface, means for drawing air through an orifice (28) (Fig. 4) creating a first vacuum, the pickup surface having a pattern of grooves defining vacuum channels (see Fig. 5), a substantially U-shaped vacuum channel (16) (Fig. 2), and a housing (12) having a compartment (18). It is also pointed out that the Baan et al. device (5,971,454) is also capable of creating a second vacuum as applicant recited.

10. Claims 1 and 4-6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer et al. (5,290,082).

Palmer et al. (5,290,082) discloses a vacuum pickup device and method comprising a generally flat paddle member (54) (Fig. 3) having a pickup surface and a planar top surface, means (52) for drawing air through an orifice (53) (Fig. 3) creating a first vacuum, and a housing (5) having a compartment (Fig. 2) which has substantially downwardly and outwardly flared side walls (31) (Fig. 2). It is also pointed out that the Palmer et al. (5,290,082) is also capable of creating a second vacuum as applicant recited.

11. Claims 1, 4, and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Erickson et al. (3,608,946).

Erickson et al. (3,608,946) discloses a vacuum pickup device and method comprising a generally flat paddle member (Figs. 2 and 3) having a pickup surface and a planar top surface, means (20) for drawing air through an orifice (34) (Fig. 3) creating a first vacuum and a second vacuum at the periphery of the paddle through the apertures (38,38), and a housing (26,42) having a compartment (44) (Figs. 2 and 3).

12. Claims 1,2, and 4-6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Logue (3,523,706).

Logue (3,523,706) discloses a vacuum pickup device and method comprising a generally flat paddle member (11) (Fig. 1A) having a pickup surface and a planar top surface, means (17') for drawing air through an orifice (17) (Fig. 1) creating a first vacuum, and a second vacuum at the periphery of the paddle through the apertures (47,47) (see Fig. 3), a pattern of grooves (14,14) (Fig. 1) on the pickup surface, and a housing having a compartment (Fig. 2A) which has substantially downwardly and outwardly flared side walls (see Fig. 1A).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



PAUL T. CHIN
Examiner
Art Unit 3652